Supreme Court of the United States

OCTOBER TERM, 1968

No. 841

TOMMIE E. L. WILLIAMS,

Petitioner,

—v.—

CITY OF OKLAHOMA CITY, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF OKLAHOMA

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THE MUNICIPAL CRIMINAL COURT
OF THE CITY OF OKLAHOMA CITY
STATE OF OKLAHOMA

[Filing Stamp omitted in printing]

Case No. 2920

THE CITY OF OKLAHOMA CITY, PLAINTIFF

—*vs*—

TOMMIE E. L. WILLIAMS, DEFENDANT

JUDGMENT AND SENTENCE—Filed November 6, 1967

NOW, on this 6th day of November, 1967, the same being a juridical day of said Court, and the time appointed for judgment in the above entitled cause, and said cause coming on for judgment, and the Defendant, Tommie E. L. Williams being personally present in open Court, and having been legally charged with the offense of operating a motor vehicle while under the influence of intoxicating liquor and having been duly arraigned thereon, and having pleaded not guilty and having been duly and legally tried and convicted of said offense, in said Court, the prisoner is now informed of the nature of the charge, of this plea and of the verdict, and is asked by the Court whether he has any legal cause to show why judgment and sentence should not be pronounced against him and alleging no sufficient cause why judgment and sentence should not be pronounced against him, and none appearing in the Court, the Court does now hereby adjudge and sentence the said Defendant for the said offense by him committed.

IT IS THEREFORE ORDERED AND ADJUDGED by this Court that the Defendant, pay a fine of fifty dollars ($50.00) to the City of Oklahoma City and be imprisoned in the City Jail of Oklahoma City, Oklahoma

County for a period of 90 days from this date and that he pay the costs herein taxed at $——. It is ordered by the Court that the Chief of Police of the City of Oklahoma City, confine the said Defendant in the City Jail of Oklahoma City, Oklahoma County, Oklahoma for a period of 90 days.

/s/ Phillip E. Lambert
Judge, Municipal Criminal Court

[Officer's return and Attestation omitted in printing]

IN THE MUNICIPAL CRIMINAL COURT
OF THE CITY OF OKLAHOMA CITY

NOTICE OF INTENTION TO APPEAL AND REQUEST FOR CASEMADE AT PUBLIC EXPENSE—November 15, 1967

COMES now Defendant, Tommie E. L. Williams, and gives notice in open court of his intention to appeal to the Court of Criminal Appeals of the State of Oklahoma from the verdict and judgment rendered against him herein on the sixth day of November, 1967, and requests that this Notice be entered on the trial docket of this Court as provided by law. Defendant further requests that Casemade be prepared at public expense by reason of his being an indigent person unable to furnish the costs of Casemade, as more completely appears from his Affidavit, attached hereto, labeled "Exhibit A" and made a part hereof.

Dated this 15th day of November, 1967.

/s/ Jon F. Gray
JON F. GRAY
Attorney for Defendant
Staff Attorney,
Legal Aid Society

AFFIDAVIT

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

TOMMIE E. L. WILLIAMS, being of legal age and first duly sworn upon oath, states that he is the Defendant named in the case, City of Oklahoma City -vs- Tommie E. L. Williams, No. 2920, in the Municipal Criminal Court of the City of Oklahoma City, Oklahoma County, Oklahoma; that Defendant has filed his Notice of Intention to Appeal the judgment and verdict rendered herein in said Court on the sixth day of November, 1967, to the Court of Criminal Appeals of the State of Oklahoma; that affiant is a married person, with the duty upon him of supporting his wife and eleven (11) children; that Defendant is without funds to perfect said appeal or to provide security for costs therein; that he has no property or relative or other friends or acquaintances willing to assist him by providing said costs; and that neither he nor his attorney, who represented him, is able to make up a full, complete proper and adequate transcript from memory.

TOMMIE E. L. WILLIAMS
Defendant

[Jurat omitted in printing]

IN THE MUNICIPAL CRIMINAL COURT
OF THE CITY OF OKLAHOMA CITY
OKLAHOMA COUNTY, OKLAHOMA

No. 2920

THE CITY OF OKLAHOMA CITY, PLAINTIFF

—*vs*—

TOMMIE E. L. WILLIAMS, DEFENDANT

JOURNAL ENTRY OVERRULING DEFENDANT'S APPLICATION FOR CASEMADE AT PUBLIC EXPENSE—Filed December 6, 1967

Now, on this Sixth day of December, 1967, this cause comes on for hearing after regular setting and notice upon the application of defendant for a casemade at public expense, which was filed herein on the 15th day of November, 1967, the City of Oklahoma City being present by its counsel of record and defendant being present in person and by his attorney, Jon F. Gray, Staff Attorney, Legal Aid Society of Oklahoma County, Inc.; the Court, having examined the Briefs submitted in support of both parties' positions, having heard the testimony of Defendant sworn upon oath, having heard the arguments of counsel and being fully advised in the premises, finds that:

1. The questions of law and fact raised by defendant's appeal are not wholly without merit, but rather are ones with substantial arguments on both sides.

2. The questions raised by defendant's appeal cannot be presented to the proper appellate Court, by an appeal by Transcript of Record, but must be presented by the preparation of at least a partial Casemade herein.

3. The application of defendant for a casemade at public expense is in proper form and has been timely filed in this court.

4. Defendant is and qualifies under the law in Oklahoma as an indigent person, who is unable to

furnish funds to perfect said appeal or to provide security for costs in connection with his appeal and that he has no property nor relatives nor other friends or acquaintances which can be the source of security for costs herein.

5. Neither defendant nor his attorney of record can make up a full, complete, proper, and adequate transcript of the testimony and proceedings in said cause from memory,

but that there is no statutory authority by which to grant relief and, therefore, the application of defendant for a casemade at public expense should be denied.

IT IS, THEREFORE, THE ORDER, JUDGMENT, AND DECREE of this Court that the application of defendant that casemade be prepared at public expense by reason of his being an indigent person, is hereby denied, with exceptions allowed to defendant.

/s/ PHILLIP E. LAMBERT
PHILLIP E. LAMBERT
Judge of the
Municipal Criminal Court

APPROVAL AS TO FORM:

/s/ JON F. GRAY
JON F. GRAY, Attorney for Defendant
Staff Attorney—Legal Aid Society
1455 Westwood Avenue
Oklahoma City, Oklahoma 73108
MElrose 1-1503

.....
Attorney for Plaintiff

IN THE COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

A-14553

PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner, Tommie E. L. Williams, and states to the Court that:

I

Respondent, The City of Oklahoma City, a municipal corporation, hereinafter referred to as Respondent City, is a municipal corporation duly established, operating in and doing business under the laws of the State of Oklahoma. Respondent The Municipal Criminal Court of the City of Oklahoma City, is a municipal Court duly established under the statutes of the State of Oklahoma. Respondent Phillip E. Lambert is the presiding Judge of the Respondent Municipal Criminal Court of the City of Oklahoma City.

II

Your Petitioner is a citizen and resident of the State of Oklahoma who is an indigent person, according to his affidavit filed herein, marked Exhibit "4", attached hereto and made a part hereof, and according to the adjudication of Respondent Phillip E. Lambert, Judge of the Municipal Criminal Court of the City of Oklahoma City, hereinafter referred to as Respondent Judge Lambert, which is attached hereto, marked Exhibit "5" and made a part hereof.

III

Your Petitioner, hereinafter referred to as Defendant, is a Defendant in a certain action prosecuted by Respondent City in the Court of Respondent Municipal Criminal Court of the City of Oklahoma City, hereinafter referred to as Respondent Court, which cause is entitled, "The City of Oklahoma City, a municipal corporation, versus Tommie E. L. Williams," Number 2920, as more specifi-

cally appears from the Information filed against him which is attached hereto, marked Exhibit "1" and made a part hereof. After the Information was filed against him in said cause, Defendant pled "Not Guilty," trial was held to a jury, and verdict, judgment, and sentence were rendered against him, as more particularly appears from the Appearance Docket of Respondent Court, attached hereto, marked Exhibit "6" and made a part hereof, and from the Judgment and Sentence of Respondent Court, which is attached hereto, marked Exhibit "2" and made a part hereof.

IV

Defendant timely filed his Motion for New Trial, which is attached hereto, marked Exhibit "3" and made a part hereof and which was overruled by Respondent Judge Lambert. (Exhibit 5) Defendant then gave notice of his intention to appeal to this Court and requested in writing that a case made be furnished him at public expense. (Exhibit 4)

V

Respondent Judge Lambert heard Defendant's application for a case made at public expense on the Sixth day of December, 1967, and entered his order overruling the same. In the order of Respondent Judge Lambert, (Exhibit 5) he made the following findings: (a) Defendant's appeal is not wholly without merit, (b) Defendant's appeal cannot be pursued by Transcript of Record, but must be presented by at least a partial case made, (c) Defendant's application for case made at public expense is in proper form and timely filed with Respondent Court, (d) Defendant qualifies as an indigent person under the law of Oklahoma, and (e) Neither Defendant nor his attorney could make up a transcript of the testimony and proceedings from memory. Respondent Judge Lambert's ruling was expressly based upon a lack of ordinance or statute authorizing him to grant the relief prayed for.

VI

Counsel for Defendant, Jon F. Gray, states that he is a staff attorney with The Legal Aid Society of Oklahoma

County Inc., and is therefore serving Defendant without any expense to him for attorney's fee.

VII

The Fourteenth Amendment to the United States Constitution prohibits any state from denying to any person within its jurisdiction the equal protection of the laws. Respondent City and Respondent Court are expressly created by statutes of the State of Oklahoma. They continue their existance and operation by authority of the statutes of the State of Oklahoma. The funding of and operations of all three (3) respondents are strictly authorized and controlled by the Constitution, statutes, and Courts of the State of Oklahoma. By its Constitution and statutes, the State of Oklahoma gives to a citizen convicted of a misdemeanor in any of its lower Courts the absolute right to appeal said conviction by case made to this Honorable Court. Since this right is granted to all citizens within the jurisdiction of this state, the exercise of it cannot be predicated upon the Defendant's ability to pay the costs of said proceedings, under the prohibition of the Fourteenth Amendment of the United States Constitution. The above mentioned refusal of Respondents to grant Defendant's application for a case made at public expense is a clear violation of Defendant's Constitutional Right.

VIII

Time is now of the essence. The State of Oklahoma has by statute given Defendant 120 days from November 6, 1967, in which to appeal the judgment and sentence against him. Respondents have already caused Defendant to use approximately six-(6) weeks of this time in exhausting all remedies previously available to him. The instant Petition is Defendant's only adequate remedy at law.

WHEREFORE, Defendant, being otherwise remedyless, prays this Honorable Court to issue an Alternative Writ of Mandamus requiring and compelling the said Respondent Judge Lambert to make all such orders as

are necessary to provide for preparation and settling of case made and compelling Respondent City, its agents, servants and employees, to take all such steps as are necessary to provide for the costs of transcription and preparation of case made, and requiring all three (3) Respondents to comply with their clear statutory and Constitutional duty in the premises, to provide Defendant a case made as prayed for at public expense and without delay, and for such other relief as may be just and proper in the premises.

TOMMIE E. L. WILLIAMS
Defendant

By .....
JON F. GRAY
Staff Attorney, Legal Aid Society of Oklahoma County, Inc.

Attorney for Defendant

[Jurat omitted in printing]

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

No. A-14,553

TOMMIE E. L. WILLIAMS, PETITIONER

—*vs*—

THE CITY OF OKLAHOMA CITY, a municipal corporation; THE MUNICIPAL CRIMINAL COURT OF THE CITY OF OKLAHOMA CITY; and PHILLIP E. LAMBERT, Judge thereof, RESPONDENTS

MEMORANDUM OPINION—Filed April 3, 1968

BUSSEY, J.:

This is an original proceeding in which Tommie E. L. Williams seeks an order of this Court directing the preparation of casemade at the expense of the City of Oklahoma City in order that he may perfect an appeal to this Court from the judgment and sentence rendered against him in the Municipal Criminal Court of Oklahoma City, where he was charged, tried and convicted for a violation of the city ordinance of Oklahoma City and sentenced to serve 90 days in the city jail and a fine of $50.00. The petitioner, an indigent represented by the Legal Aid Society, made a timely request for a casemade at city expense and at a hearing, conducted before the trial judge, it was determined that he was unable to pay for a casemade and would, if convicted in state court for a violation of state statute, be entitled to a casemade at public expense. His application for casemade was denied by the trial court for the reason that neither the statutes of the State of Oklahoma, nor the city ordinances of Oklahoma City, authorize the preparation of a casemade at city expense in order that an indigent person may perfect an appeal to this Court. We are of the opinion that the trial court correctly ruled that neither the statutes of the State of Oklahoma nor the city ordinances of Oklahoma City authorize the preparation of casemade or

transcript at city expense, and this leads us to a consideration of the petitioner's allegation that to deny him the preparation of casemade at city expense would be a denial of the equal protection clause of the Federal Constitution made obligatory upon the states by the 14th Amendment of the Constitution of the United States. The petitioner does not cite authority where the Supreme Court of the United States has ever ruled that an indigent person has a right to casemade at city expense in order to perfect an appeal from a conviction for a violation of city ordinance. Although we have carefully reviewed numerous holdings of the Supreme Court of the United States, we are unable to find a single instance where by dicta or otherwise they have intimated that an indigent person, convicted for a violation of a city ordinance, quasi criminal in nature and often referred to as a petty offense, is entitled to a casemade or transcript at city expense in order to perfect an appeal from said conviction. This being true, we are of the opinion that the relief prayed for should be, and the same is hereby, denied. WRIT DENIED.

ORIGINAL PROCEEDING in which Tommie E. L. Williams seeks an order of this Court directing the preparation of casemade at city expense. WRIT DENIED.

JON F. GRAY
Legal Aid Society
Attorney for Petitioner

ROY H. SEMTNER
Municipal Counselor

JERRY R. FENT
Asst. Munic. Counselor
Attorneys for Defendant

OPINION BY BUSSEY, J.,
TOM BRETT, J. Concurs.

SUPREME COURT OF THE UNITED STATES

No. 167 Misc., October Term, 1968

TOMMIE E. L. WILLIAMS, PETITIONER

v.

CITY OF OKLAHOMA CITY, ET AL.

On petition for writ of Certiorari to the Court of Criminal Appeals of the State of Oklahoma.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 841 and placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

December 16, 1968

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